

### **REMARKS/ARGUMENTS**

The Office Action mailed October 28, 2009 has been carefully reviewed and these remarks are responsive to that Office Action. Claims 1, 3, 5-16, and 39-47 remain pending in this Application. Claims 43-44, 46 have been amended and claims 51-54 have been added. Support for the amendments and the new claims may be found in paragraphs 25 and 31, among other places. The Examiner is invited to contact the undersigned should it be deemed helpful to facilitate prosecution of the application.

#### **Rejection under 35 USC §101**

Claims 42-45 are rejected under 35 USC § 101 because the claimed invention is allegedly not supported by a process, machine, manufacture, composition of matter, asserted utility, or a well established utility. More specifically, the Office Action states on page 3:

Claim 42 claims “a computer readable medium comprising executable instructions for executing...” However, claim 42 does not define a computer-readable storage medium to be a memory/disk, and is thus non-statutory for that reason. Applicant’s specification does not exclude “a computer-readable storage medium” from other forms of propagated signals that computer program product may be formatted (stored within the communication/transport medium. i.e., signal) for broadcasting. Moreover, the claims do not define a computer-program product to be a functional descriptive materials encoded on a memory/disk, and is thus non-statutory for that reason (i.e., “When functional descriptive materials is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized”).

Therefore, the full scope of claim 42 as properly read in light of the disclosure encompasses non-statutory subject matter, i.e., signal, the claim as a whole is nonstatutory, under the present USPTO Interim Guidelines, 1300 Official Gazette Patent and Trademark Office 142 (Nov. 22, 2005).

Applicants respectfully disagree. Claim 42 is written as a standard computer-readable medium claim. According to MPEP 2106.01, “Nonfunctional descriptive material may be claimed in combination with other functional descriptive multi-media material on a computer-readable medium to provide the necessary functional and structural interrelationship to satisfy the requirements of 35 U.S.C. 101.” The computer-readable medium (structure) of claim 42 includes instructions to perform several statutory functions (i.e., processing episodic series information, display a user controllable interface, etc.). Therefore, claim 42 is supported by a

statutory article and thus is allowable. Claims 43-45 depend on claim 42 and are distinguishable for depending on an allowable claim and further in view of the features they recite. Therefore, reconsideration and allowance of claims 42-45 are respectfully requested.

### **Rejection under 35 USC §102**

Claims 1, 42, 43 and 45 are rejected under 35 USC §102(e) as being anticipated by Roth et al. (U.S. Publication No. 2003/0167471), hereinafter referred to as Roth. Claim 1 recites, among other things:

displaying additional windows in the substantially small portion of the display screen that include textual and graphical indicia of additional episodic series related to the episodic series displayed in the first window such that the streamed on-demand episode is still visible

Roth does not disclose or suggest at least this feature of claim 1. The Office Action on pages 4 and 5 alleges that Roth describes these features of claim 1 and refers to paragraph 35 and Figure 6 of Roth in doing so. While Roth does describe a “system and method for managing series video-on-demand (SVOD) products,” (See Abstract of Roth) the method of Roth does not display “additional windows in the substantially small portion of the display screen that include textual and graphical indicia of additional episodic series related to the episodic series displayed in the first window such that the streamed on-demand episode is still visible.” Within the system of Roth, information and/or images corresponding to a selected episode can be displayed on the same page as information related to which season the episode aired (See Figure 6 of Roth.) Even assuming, but not admitting, that the different seasons represent additional episodic series, there are no graphical indicia of these additional episodic series present. Figure 6 merely shows the words “Season 1,” “Season 2,” etc. Thus, the display of Roth does not include “graphical indicia of additional episodic series related to the episodic series displayed in the first window such that the streamed on-demand episode is still visible,” as claimed.

For at least these reasons, Applicant submits that independent claim 1 distinguishes over the references of record and is in condition for allowance. Independent claim 42 recites similar features to those of independent claim 1; hence, Applicant submits that independent claim 42 distinguishes over the references of record and is in condition for allowance for similar reasons

given in support of claim 1. Claims 43 and 45 depend from independent claim 42 and are distinguishable for at least the same reasons as claim 42, and further in view of the various features recited therein.

### **Rejections under 35 USC §103**

Claims 3, 5-10, 12, 13-15, 16, 39, 44, 46 and 47 are rejected under 35 USC §103(a) as being unpatentable over Roth, in view of Ellis (U.S. Patent No. 7,493,643), hereinafter referred to as Ellis. Ellis does not cure the deficiencies of Roth, discussed above. Independent claim 46 has been amended to recite similar features to those of independent claim 1; hence, Applicant submits that independent claim 46 distinguishes over the references of record and is in condition for allowance for similar reasons given in support of claim 1. Dependent claims 3, 5-10, 12, 13-15, 16, 39, and 47 depend from independent claim 46 and are distinguishable for at least the same reasons as claim 46, and further in view of the various features recited therein. Claim 44 depends from independent claim 42 discussed above and is distinguishable for at least the same reasons as claim 42, and further in view of the various features recited therein.

Claim 11 is rejected under 35 USC §103(a) as being unpatentable over Roth, in view of Ellis and further in view of Dewese et al. (U.S. Publication No. 2005/0262542), hereinafter referred to as Dewese. Dewese does not cure the deficiencies of Roth and Ellis, discussed above. Claim 11 depends from independent claim 46 and is distinguishable for at least the same reasons as claim 46, and further in view of the various features recited therein.

Claim 40 is rejected under 35 USC §103(a) as being unpatentable over Roth, in view of Ellis, and further in view of Fukuda et al. (U.S. Publication No. 2004/0068740), hereinafter referred to as Fukuda. Fukuda does not cure the deficiencies of Roth and Ellis, discussed above. Claim 40 depends from independent claim 46 and is distinguishable for at least the same reasons as claim 46, and further in view of the various features recited therein.

Claim 41 is rejected under 35 USC §103(a) as being unpatentable over Roth, in view of Ellis, and further in view of Matthews et al. (U.S. Patent No. 5,815,145), hereinafter referred to as Matthews. Matthews does not cure the deficiencies of Roth and Ellis, discussed above. Claim 41 depends from independent claim 46 and is distinguishable for at least the same reasons as claim 46, and further in view of the various features recited therein.

## **New Claims**

Claims 51-54 have been added to the claims listing. Support for the new claims may be found in paragraph 25 of the specification as originally filed, among other places. Independent claim 51 recites similar features to those discussed above for claim 42. Therefore, Applicant submits that independent claim 51 distinguishes over the references of record and is in condition for allowance for similar reasons given in support of claim 42. Claims 52-54 depend from independent claim 51 and are distinguishable for at least the same reasons as claim 51, and further in view of the various features recited therein.

All rejections having been addressed, Applicant respectfully submits that this application is in condition for allowance, and respectfully requests issuance of a notice of allowance.

Respectfully submitted,

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